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of the Debtor)**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

In re:

PICONGEN WIRELESS INC.,
Debtor,

)
) Case No.: 12-48131 RLE 7
)
) Chapter 7
)
) The Honorable Roger L. Efremsky
) United States Bankruptcy Judge
)
) STATEMENT OF ISSUES ON APPEAL
) AND DESIGNATION OF RECORD

Sai Manapragada, Ankit Sahu, Ronald W. Moeckel, Sharat Kumar Yempati, and Max
Lightfoot, equity holders of the Debtor, Picongen Wireless, Inc., pursuant to Federal Rule of
Bankruptcy Procedure 8006 hereby file this Statement of Issue on Appeal and Designation of
STATEMENT OF ISSUES ON APPEAL AND DESIGNATION OF RECORD- PAGE 1

1 Appellate Record regarding their appeal from the Order Approving Sale of Estate's Interest in
2 Substantially All Assets of the Bankruptcy Estate Free and Clear of Certain Claims of Lien and
3 Other Interests to Sigma Group, Inc., entered on January 23, 2013 [Docket No. 41] (the
4 "Order"). A time Notice of Appeal was filed on February 5, 2013 [Docket No. 45].
5

6 **I.**

7 **STATEMENT OF ISSUES ON APPEAL**

- 8 1. Whether the Chapter 7 Trustee (the "Trustee") abused his discretion or failed to
9 exercise appropriate business judgment in declining to halt, re-notice and re-
10 convene the January 22, 2013 auction of the Debtor's assets when the bid price rose
11 to more than four (4) times the price initially offered by the Sigma Group;
12
13 2. Whether the Trustee properly noticed the auction that occurred on January 22,
14 2013.
15
16 3. Whether the Trustee properly marketed the Debtor's assets appropriately before
17 allowing them to be auctioned.
18
19 4. Whether the Trustee abused his discretion or failed to use appropriate business
20 judgment in refusing to consider the bid value to the estate of voluntary reductions
21 in claims against the Estate offered by certain bidders at the auction, including Sai
22 Manapragada.
23
24 5. Whether the Bankruptcy Court abused its discretion in failing to consider the
25 Debtor's Motion to Convert Case to Chapter 11 [Docket No. 34] before proceeding
26 to an auction, which effectively rendered such Motion moot.

II.

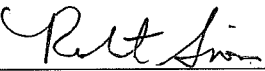
DESIGNATION OF APPELLATE RECORD

1. The Docket in the Debtor's Chapter 11 case, as of February 19, 2013;
2. The involuntary petition filed on October 3, 2012 [Docket No. 1];
3. Order for Relief [Docket No. 6];
4. Summary of Schedules and Statement of Financial Affairs [Docket No. 7];
5. Motion to Sell Property Free and Clear and all attachments thereto [Docket No. 15];
6. Notice of Hearing re: Motion to Sell Property Free and Clear [Docket No. 16];
7. Notice of Possible Dividends [Docket No. 19];
8. Motion to Reschedule or Continue Hearing on Offer to Purchase Assets Free and Clear of Lien, filed by Creditor, Robert Groover [Docket No. 25];
9. Offer to Purchase Assets, filed by Creditor, Robert Groover [Docket No. 27];
10. Opposition to Proposed Sale [Docket No. 28];
11. Reply to Robert Groover's Opposition to Proposed Sale [Docket No. 29];
12. Declaration of Patrick Costello: re Chapter 7 Trustee's Sale Motion and all exhibits thereto [Docket No. 30];
13. Order Overruling Opposition to Motion for Order Approving Sale of Estate's Interest in Substantially All of the Bankruptcy Estate Free and Clear of Certain Claims of Lien and Other Interests [Docket No. 32];
14. Motion to Convert Case to Chapter 11 [Docket No. 34];

- 1 15. Notice of Hearing of Motion to Convert Chapter 7 Case to a Case under Chapter
2 11 [Docket No. 35];
- 3 16. Supplemental Document, Trustee's Further Support of Auction Sale and
4 Preliminary Opposition to Debtor's Motion to Convert to Chapter 11 [Docket
5 No. 37];
- 6 17. Transcript of Hearing on January 22, 2013 before the Honorable Roger
7 Efremsky;
- 8 18. Order Approving Sale of Estate's Interest in Substantially All Assets of the
9 Bankruptcy Estate Free and Clear of Certain Claims of Lien and Other Interests
10 [Docket No. 41];
- 11 19. Notice of Appeal [Docket No. 45];
- 12 20. Brief/Memorandum in Opposition to Someone's Motion to Convert Case from
13 Chapter 7 to Chapter 11 [Docket No. 46];
- 14 21. Declaration of Jeremy Katz in Support of Trustee's Opposition to Someone's
15 Motion to Convert Case from Chapter 7 to Chapter 11 [Docket No. 47];
- 16 22. Notice of Errata [Docket No. 49];
- 17 23. Declaration of Patrick M. Costello re: Motion to Convert Chapter 7 Case to a
18 Case Under Chapter 11 and all exhibits thereto [Docket No. 54];
- 19 24. Declaration of Patrick M. Costello re: Motion to Convert Chapter 7 Case to a
20 Case under Chapter 11 [Docket No. 55];
- 21 25. Withdrawal of Documents: Withdrawal of Motion to Convert Chapter 7 Case to
22 a Case under Chapter 11 [Docket No. 56].
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1
2 Respectfully submitted,

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26

CERTIFICATE OF SERVICE

I hereby certify on this 19th day of February, 2013, that I served a true and correct copy of the foregoing Notice of Appeal upon the below listed parties by U. S. First Class Mail.

/s/ Robert A. Simon

Robert A. Simon

Service List

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